



OFFICE OF MANAGEMENT AND BUDGET

2011 STATUTORY PAY-AS-YOU-GO ACT ANNUAL REPORT

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

SUMMARY: This report is being published as required by the Statutory Pay-As-You-Go (PAYGO) Act of 2010, 2 U.S.C. §931 et seq. The Act requires that OMB issue (1) an annual report as specified in 2 U.S.C. §934(a) and (2) a sequestration order, if necessary.

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SUPPLEMENTARY INFORMATION: This report and additional information about the PAYGO Act can be found at http://www.whitehouse.gov/omb/paygo_default.

Authority: 2 U.S.C. 934

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This Report is being published pursuant to section 5 of the Statutory Pay-As-You-Go (PAYGO) Act of 2010, Public Law 111-139, 124 Stat. 8, 2 U.S.C. §934, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, within 14 working days after the end of a Congressional session.

This Report describes the budgetary effects of all legislation enacted during the first session of the 112th Congress and presents the 5-year and 10-year PAYGO scorecards maintained by OMB. Because neither the 5-year nor 10-year scorecard shows a debit for the budget year, which for purposes of this Report is fiscal year 2012,¹ a sequestration order under subsection 5(b) of the PAYGO Act, 2 U.S.C §934(b), is not necessary.

There was no legislation designated as emergency legislation under section 4(g) of the PAYGO Act, 2 U.S.C. 933(g) enacted during the first session of the 112th Congress. In addition, the scorecards include no current policy adjustments made under section 4(c) of the PAYGO Act, 2 U.S.C. 933(c), for legislation enacted during the first session of the 112th Congress. For these reasons, the Report does not contain any information about emergency legislation or a description of any current policy adjustments.

I. PAYGO Legislation with Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues; and appropriations legislation that affects direct spending in the years beyond

¹ References to years on the PAYGO scorecards are to fiscal years.

the budget year or affects revenues in any year.² For a more complete description of the Statutory PAYGO Act, see the OMB website, http://www.whitehouse.gov/omb/paygo_description, and Chapter 14, “Budget Process,” of the *Analytical Perspectives* volume of the 2012 Budget, <http://www.gpoaccess.gov/usbudget/fy12/index.html>.

The 5-year PAYGO scorecard shows that PAYGO legislation enacted in the first session of the 112th Congress was estimated to have PAYGO budgetary effects that increase the deficit by \$1,880 million each year from 2012 through 2016.³ However, balances carried over from the second session of the 111th Congress result in net savings being shown on the 5-year scorecard for years 2012 through 2015. The 10-year PAYGO scorecard shows that PAYGO legislation for this session of Congress decreased the deficit by \$710 million each year from 2012 through 2021. Balances from the prior session further increase the savings in years 2012 through 2020.

In the first session of the 112th Congress, 33 laws were enacted that were determined to constitute PAYGO legislation. Of the 33 enacted PAYGO laws, 6 were estimated to have PAYGO budgetary effects (costs or savings) in excess of \$500 million over one or both of the 5-year or 10-year PAYGO windows. These acts were:

² Provisions in appropriations acts that affect budget authority for direct spending in the years beyond the budget year (also known as “outyears”) or affect revenues in any year are scorable for the purposes of the PAYGO scorecards except if the provisions produce outlay changes that net to zero over the current year, budget year, and the four subsequent years. As specified in section 3 of the Statutory PAYGO Act, off-budget effects are not counted as budgetary effects. Off-budget effects refer to effects on the Social Security trust funds (Old-Age and Survivors Insurance and Disability Insurance) and the Postal Service.

³ As provided in section 4(d) of the PAYGO Act, 2 U.S.C. §933(d), budgetary effects on the PAYGO scorecards are based on Congressional estimates for bills including a reference to a Congressional estimate in the Congressional Record, and for which such a reference is indeed present in the Record. Absent such a Congressional cost estimate, OMB is required to use its own estimate for the scorecard. No bill enacted during the first session of the 112th Congress had such a Congressional estimate and therefore OMB was required to provide an estimate for all PAYGO laws enacted during the session.

- Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, Public Law 112-9;
- Department of Defense and Full-Year Continuing Appropriations Act, 2011, Public Law 112-10;
- Budget Control Act of 2011, Public Law 112-25;
- an Act to Extend the Generalized System of Preferences, and for other purposes, Public Law 112-40;
- an Act to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes, Public Law 112-56; and
- Consolidated Appropriations Act, 2012, Public Law 112-74.

In addition, 10 laws were enacted that were estimated to have PAYGO budgetary effects (costs or savings) greater than zero but less than \$500 million over one or both of the 5-year or 10-year PAYGO windows. These acts were:

- Restoring GI Bill Fairness Act of 2011, Public Law 112-26;
- Leahy-Smith America Invents Act, Public Law 112-29;
- Continuing Appropriations Act, 2012, Public Law 112-33;
- Child and Family Services Improvement and Innovation Act, Public Law 112-34;
- Veterans Health Care Facilities Capital Improvement Act of 2011, Public Law 112-37;

- United States-Korea Free Trade Agreement Implementation Act, Public Law 112-41;
- United States-Colombia Trade Promotion Agreement Implementation Act, Public Law 112-42;
- United States-Panama Trade Promotion Agreement Act, Public Law 112-43;
- Consolidated and Further Continuing Appropriations Act, 2012, Public Law 112-55; and
- National Defense Authorization Act for Fiscal Year 2012, Public Law 112-81.

Finally, in addition to the laws identified above, 17 laws enacted in the first session were estimated to have negligible budgetary effects. The budgetary effects of these laws were estimated to fall below \$500,000 in each year and in the aggregate from 2012 through 2021.

II. Budgetary Effects Excluded from the Scorecard Balances

One law enacted in the first session of the 112th Congress had estimated budgetary effects on direct spending and revenues that were not included in the calculations for the PAYGO scorecards due to an exclusion required by law. Section 512 of Public Law 112-78, the Temporary Payroll Tax Cut Continuation Act of 2011, provides that “[t]he budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.” For this reason, the budgetary effects of this law were not included in the PAYGO scorecards.⁴

III. The Budget Control Act

⁴ If this law had been entered on the scorecard, the budgetary effects of the law included in the scorecard totals would have been reduced by a current policy adjustment for the bill’s provisions relating to the Medicare physician payments under the Sustainable Growth Rate system.

The Budget Control Act of 2011 (BCA), P.L. 112-25, made changes in higher education programs, set limits on future discretionary spending, provided for increases in the statutory limit on Federal debt, and created a process for enacting further deficit reduction. The PAYGO effects shown on the scorecard for the BCA are limited to those effects due to changes made to higher education programs. In setting limits on total annual discretionary appropriations,⁵ for the years 2012 through 2021, the BCA established enforcement mechanisms on discretionary spending to ensure that those limits would not be breached. Because the discretionary caps and the related enforcement provisions applied only to future levels of discretionary appropriations and did not affect appropriations already enacted, these provisions of the BCA were determined not to have budgetary effects under the PAYGO Act. The BCA also established a process for achieving at least \$1.2 trillion in deficit reduction over the 2012 to 2021 period, backed by automatic measures for achieving the \$1.2 trillion in deficit reduction in the event that the process did not produce deficit reduction of at least that amount. The process involved the establishment of a joint House and Senate committee, the “Joint Select Committee on Deficit Reduction,” and the enactment of a bill recommended by the Joint Committee by January 15, 2012. The automatic measures involved sequestration of discretionary spending for 2013, reductions to the discretionary spending caps for 2014 through 2021, and a sequestration of non-exempt direct spending accounts beginning in 2013. The automatic measures to enforce deficit reduction pursuant to the Joint Committee process – which were designed to influence future Congressional action, rather than to change authorizations for specific direct spending programs or to change

⁵ Discretionary spending is spending controlled by annual appropriations acts.

the level or purpose of enacted discretionary appropriations – were determined, for scoring purposes, to be enforcement measures and therefore were not included in the entry for the BCA on the PAYGO scorecards.

IV. PAYGO Scorecards

STATUTORY PAY-AS-YOU-GO SCORECARDS
(in millions of dollars; negative amounts portray decreases in deficits.)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	
Net PAYGO Impact.....	83	3,836	12,432	2,852	-2,685	-7,118	-929	-2,840	-2,867	-4,791	-5,071	
Totals.....	2011 - 2016					9,399	2011 - 2021					-7,099
Five-year PAYGO Scorecard												
Current Congressional session.....	1,880	1,880	1,880	1,880	1,880	1,880						
Balances from prior session.....	-11,035	-11,035	-11,035	-11,035	-11,035	0						
Total, five-year scorecard.....	-9,155	-9,155	-9,155	-9,155	-9,155	1,880						
Ten-year PAYGO Scorecard												
Current Congressional session.....	-710	-710	-710	-710	-710	-710	-710	-710	-710	-710	-710	
Balances from prior session.....	-6,371	-6,371	-6,371	-6,371	-6,371	-6,371	-6,371	-6,371	-6,371	-6,371	0	
Total, ten-year scorecard.....	-7,081	-7,081	-7,081	-7,081	-7,081	-7,081	-7,081	-7,081	-7,081	-7,081	-710	

The total net budgetary effects of all PAYGO legislation enacted during the first session of the 112th Congress are shown on the line labeled “net PAYGO impact” in the above table. The total five-year net impact was a cost of \$9,399 million which is averaged over the years 2012 to 2016 on the 5-year PAYGO scorecard, resulting in a cost of \$1,880 million in each year. Savings carried over from the prior session of the Congress more than offset these costs, resulting in a savings of \$9,155 million each year in 2012 through 2015. The five-year PAYGO window extended only through 2015 in the last session of the prior Congress so, there were no five-year savings to carry over into 2016.

The total 10-year net impact of legislation enacted during the first session of the 112th Congress was a savings of \$7,099 million. The 10-year PAYGO scorecard shows the total net impact averaged over the 10-year period, resulting in \$710 million in savings every year. Balances from the prior session increase the savings in years 2012 through 2020 to \$7,081 million.

V. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted in the first session of the 112th Congress, combined with the balances left on the scorecard from the previous session of Congress, resulted in net savings on both the 5-year and the 10-year scorecard in the budget year, which is 2012 for the purposes of this Report. Because the costs for the budget year, as shown on the scorecards, do not exceed savings for the budget year, there is no “debit” on either scorecard under section 3 of the PAYGO Act, 2 U.S.C. §932, and there is no need for a sequestration order.

The savings shown on the scorecards for 2012 will be removed from the scorecards that are used to record the budgetary effects of PAYGO legislation enacted in the second session of the 112th Congress. The totals shown in 2013 through 2021 will remain on the scorecards and will be used in determining whether a sequestration order will be necessary at the end of future sessions of the Congress.

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